

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JASON SIGERS,

Plaintiff,

v.

Case No. 08-13298
Honorable Patrick J. Duggan

BAILEY, ET AL.,

Defendants.

OPINION AND ORDER

At a session of said Court, held in the U.S.
District Courthouse, Eastern District
of Michigan, on February 25, 2009.

PRESENT: THE HONORABLE PATRICK J. DUGGAN
U.S. DISTRICT COURT JUDGE

Plaintiff, a prisoner in the custody of the Michigan Department of Corrections, filed this *pro se* action pursuant to 42 U.S.C. § 1983 on July 31, 2008. In his initial complaint, Plaintiff named the Michigan Department of Corrections (“MDOC”) as the only defendant. Plaintiff subsequently filed an amended complaint which no longer identifies the MDOC as a defendant and instead names several known and unknown individuals. Plaintiff alleges in his complaint that Defendants have violated his Eighth Amendment rights by failing to protect him from assaults by other inmates and to provide him with adequate medical care.

Presently before the Court are Plaintiff’s motion for protective order filed

November 6, 2008, and motion for a preliminary injunction filed December 12, 2008. In the first motion, Plaintiff seeks a “protective order against [t]he Defendants and any MDOC Staff that involve themselves in the handling and processing of Plaintiff’s correspondence with regard to this action . . .” (Doc. 21 at 1.) Plaintiff indicates in his motion that, based on a discrepancy in the amount he has been charged for postage and the Court’s failure to mention his response to MDOC’s previously filed motion to dismiss in an Order, he believes Defendants or MDOC agents have interfered with and obstructed his mail.¹ Plaintiff also asks the Court to take “judicial notice that the MDOC officials have previously denied Plaintiff access to copies of his medical grievances and files . . .” (*Id.* at 2-3.) In the second motion, Plaintiff asks the Court to issue an injunction preventing Defendants from transferring Plaintiff to another facility. This Court has referred both motions to Magistrate Judge Michael Hluchaniuk.

On January 9, 2009, Magistrate Judge Hluchaniuk issued a Report and Recommendation (R&R), recommending that Plaintiff’s motions be denied without prejudice until the defendants named in Plaintiff’s amended complaint are served and have an opportunity to answer or otherwise respond to the complaint. Magistrate Judge Hluchaniuk provides that Plaintiff may re-file his motions at that time, to the extent those issues remain ongoing and relate to the named defendants. At the conclusion of the R&R, Magistrate Judge Hluchaniuk advises the parties that they may object and seek review of

¹The Court notes that Plaintiff’s response to MDOC’s motion to dismiss in fact was received by the Court and was filed on October 30, 2008. (Doc. 19.)

the R&R within ten days of service upon them. (R&R at 3-4.) He further specifically advises the parties that “[f]ailure to file specific objections constitutes a waiver of any further right of appeal.” (*Id.*, citing *Thomas v. Arn*, 474 U.S. 140, 106 S. Ct. 466 (1985); *Howard v. Sec’y of Health & Human Servs.*, 932 F.2d 505 (6th Cir. 1991)). Neither party filed objections to the R&R.

The Court has carefully reviewed the R&R and concurs with the conclusions reached by Magistrate Judge Hluchaniuk.

Accordingly,

IT IS ORDERED, that Plaintiff’s motion for protective order (Doc. 21) and motion for preliminary injunction (Doc. 26) are **DENIED WITHOUT PREJUDICE**.

s/PATRICK J. DUGGAN
UNITED STATES DISTRICT JUDGE

Copies to:

Magistrate Judge Michael Hluchaniuk

Jason Sigers, #445206
Cooper Street Correctional Facility
3100 Cooper Street
Jackson, MI 49201

Ronald W. Chapman, Esq.

Assistant Attorney General Julia R. Bell